Before a case comes within section 27 of the Evidence Ordinance such part of the statement as is admissible under that section should be proved to the Court. If it does not come within that section it should not be mentioned at all. The formula "In consequence of what the accused said I did so and so" is all wrong.

MAGISTRATE'S APPEAL.

David Marshall for the appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — This was an ordinary case of being in possession of chandu. The offence took place in a sampan near a ship made fast to a wharf. The appellant was not a regular member of the crew of the sampan, but was said to be on board for the purposes of repairing the engine. His qualifications for doing so were not at all obvious.

The only part of the case which called for comment arose from the fact that the appellant, whilst in custody, made a statement and afterwards chandu was found very well concealed in the sampan. Before a case comes within section 27 of the Evidence Ordinance such part of the statement as is admissible under that section should be proved to the Court. If it does not come within that section it should not be mentioned at all. The formula "in consequence of what the accused said I did so and so" is all wrong and if I thought that the appellant had been prejudiced I would quash the conviction. I do not think that it could have done him any harm in the present case.

Appeal dismissed.

Solicitors for the appellant: *Battenberg & Talma.*

SEAH CHOON YONG & ANOR. v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) May 19, 1954]

[Singapore — Magistrate's Appeals Nos. 41 & 43 of 1954]

Dangerous Drugs Ordinance, 1951, s. 6 — Protection of informers, s. 40 — Forfeiture of Car in which opium was found, s. 30 — Negligence no ground for forfeiture — Some degree of complicity of owner is necessary.

The first appellant Seah Choon Yong was the owner of the motor car in which opium was found; the second appellant Tay Kai Kee borrowed the car from the first appellant. The opium was found under the rear seat of the car in which the 2nd appellant was driving in company with another person who was not present at the trial. The second appellant was charged with being in possession of raw opium under section 6 of the Dangerous Drugs Ordinance, 1951.

Evidence by the 2nd appellant at the trial appeared to show that he had given information of the opium two days prior to the arrest to the detective who stopped the car and arrested the accused. The second appellant was convicted.

The first appellant (the owner of the car) was called upon to show cause why the car should not be forfeited in accordance with section 30 of the Ordinance. All knowledge that the car was to be used for the conveyance of opium was denied. It was also argued by counsel for the defence that even if the owner had knowledge of the fact that the 2nd appellant had informed the police, he was an informer in accordance with section 40 of the Ordinance, and that the car was used as a police trap to catch the criminals and therefore there was no *mens rea*. The forfeiture of the car was ordered. On these facts the 1st appellant appealed against the forfeiture. The accused (the second appellant) appealed against the conviction and sentence.

Held: from the evidence, the 2nd appellant appeared to have acted as a police informer before the offence was committed and that if his story was true he was guilty, if at all, in a purely technical sense and therefore the case should be sent back for a retrial. The decision on the forfeiture of the car must necessarily await the retrial of the whole case.

MAGISTRATE'S APPEAL.

Philip Hoalim Jr. for the 1st appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — The facts of the case are peculiar. The appellant-accused was unrepresented. He did not cross-examine any witnesses but called as a witness a former police officer who had been called for the prosecution. From what this witness said it would appear that the appellant had acted as an informer before the offence was committed and drove the principal offender and his chandu at the direction of this police officer. I think that the matter should be cleared up. If the story is true the appellant was only guilty, if at all, in a purely technical sense.

As regards the order for forfeiture, I think that the learned District Judge misdirected himself. The relevant words are "knowledge, consent or connivance" and I consider that Seah Choon Yong was the owner for the purposes of the enquiry. I do not think that negligence is a ground for forfeiture unless there is knowledge, consent or connivance.

Retrial ordered.

Solicitors for 1st appellant: *Philip Hoalim & Co.*

TAN BOON SENG v. PUBLIC PROSECUTOR.

[A. Cr. J. (Storr J.) June 17, 1954]

[J. B. — Criminal Appeal No. 14 of 1954]

Road Traffic — Traffic (Restrictions on Use of Roads) Order 1953 reg. 3(c)(ii) — Charge of using vehicle with three or more axle weights which weight exceeds 5½ tons — Proof of correctness of weighing.

In this case the appellant was convicted on a charge under Regulation 3(c)(ii) of the Traffic (Restrictions on